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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,953	04/11/2001	Marco Racanelli	00CON161P	3823

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EXAMINER	
MALDONADO, JULIO J	
ART UNIT	**PAPER NUMBER**
2823	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/833,953	**Applicant(s)** RACANELLI, MARCO	
	Examiner Julio J. Maldonado	**Art Unit** 2823	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1, 3-15, 17-23 and 25*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

George Fourson
Primary Examiner

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments with respect to claims 1, 3-15, 17-23 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Applicants argue, "...Zaccherini does not teach, disclose, or suggest doping a layer over a transistor gate region with a first dopant, doping the layer over the transistor gate region and a first oxide region with a second dopant, and doping a portion of the layer over the field oxide region with a third dopant so as to form a high-doped region in the layer over the field oxide region...". In response to this argument, Zaccherini was not relied upon as containing those limitations.

Also, applicants argue, "...in Zaccherini a field oxide region is formed in epitaxial layer 3, which is formed on substrate 2. Thus, in Zaccherini a field oxide region is formed in epitaxial layer 3, which is formed on substrate 2. Thus, the structure disclosed in Zaccherini is substantially different than the structure disclosed in the present application...". In response to this argument, the particularities of the structure argued by the Applicants are not recited in the claims.

Furthermore, Applicants argue, "...Zaccherini provides no motivation for forming a high-doped region in the layer over the field oxide region. In fact, Zaccherini does not even mention any method of completing formation of the P doped resistor formed in predetermined area 8 of polycrystalline layer 7...". In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Zaccherini substantially teaches all aspects of the invention but fails to disclose the argued doping. However, Shao et al. teach a forming a resistor and a transistor, and furthermore, teach performing a doping step equivalent to the argued doping, for the further advantage of forming electrical points of contact (column 8, lines 9 - 10). Since Zaccherini is open to modifications or alterations within the scope of the invention (column 4, lines 12 - 22), and the embodiments of Zaccherini and Shao et al. are directed to the formation of the polysilicon resistor and transistor regions, the combination is proper. The examiner recognizes that combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion can only establish obviousness, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Furtherstill, Applicants argue, "...Erdeljac does not teach, disclose, or suggest doping a layer over a transistor gate region with a first dopant, doping the layer over the transistor gate region and a field oxide region with a second dopant...". In response to this argument, Erdeljac et al. was no relied upon as containing those limitations.

Still further, Applicants argue, "...there is insufficient motivation to modify Zaccherini by forming a well as disclosed in Erdeljac...". In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Zaccherini substantially teaches all aspects of the invention but fail to disclose wherein said transistor gate region being situated over a well and said field oxide region not being situated over said well. However, Erdeljac et al. teach a conventional method of forming polysilicon resistors and transistors including the steps of forming gate electrodes on gate regions and forming resistor on resistor regions as disclosed by the embodiment of Zaccherini, and furthermore teach that transistor regions can also be formed outside of the well region where the resistor was formed (Fig.3). Since Zaccherini is open to modifications or alterations within the scope of the invention (column 4, lines 12 - 22), and the embodiments of Zaccherini and Erdeljac et al. are directed to the formation of the polysilicon resistor and transistor regions, the combination is proper.

Also, applicants argue, "...Shao does not teach, disclose, or suggest doping a layer over a transistor gate region with a first dopant, doping the layer over the transistor gate region and a field oxide region with a second dopant, and doping a portion of the layer over the field oxide region with a third dopant...". In response to this argument, Shao et al. was no relied upon as containing those limitations.

Applicants also argue, "...the combined teachings suggested by the Examiner are based on a classic hindsight reconstruction given the benefit of Applicant's disclosure, which is impermissible...". In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971)..